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6 *Attorneys for Plaintiff*

7
 8 IN THE UNITED STATES DISTRICT COURT
 9
 10 DISTRICT OF NEVADA

11 Michele Santopietro, an Individual,

CASE NO. 2:12-cv-01648-JCM-EJY

12 Plaintiff,

13 v.
JOINT PRETRIAL ORDER

14 Las Vegas Police Department Officers C.
 15 Howell (Badge 9634), F. Lopez-Rosende
 (Badge 8864), and K. Crawford (Badge
 16 10050),

17 Defendants.

18 After pretrial proceedings in this case, **IT IS ORDERED:**

19 I.

20 **NATURE OF THE ACTION AND RELIEF SOUGHT**

21 This case arises out of the arrest of Plaintiff Michele Santopietro (“Santopietro”) and
 22 Lea Patrick (“Patrick”) in May 2011 by Defendants Clayborn Howell, Christine Crawford, and
 23 Francisco Lopez-Rosende (collectively, the “Officers”) for doing business without a license.
 24 (ECF No. 55 at 1.)

25 Specifically, Santopietro and Patrick were in costume on the Las Vegas Strip as police
 26 characters. Like other street performers there, they were working for tips, typically given by
 27 passersby who approached them and asked to be photographed with them. The Officers were
 28 running a plainclothes operation in which they approached street performers, among others, to

1 evaluate their conduct. In this case, Howell agreed up front to tip, indicating before posing for a
 2 picture with the performers that he understood and agreed that the performers worked for tips.
 3 The Officers all agree that they were lying to the extent they promised a tip, and that lying this
 4 way is entirely proper since they are law officers. Howell got the picture he wanted and
 5 for which he agreed to pay, and walked off. After Patrick reminded Howell of his prior
 6 agreement to tip, the Officers arrested them both for doing business without a license.
 7 Santopietro sued the Officers under 42 U.S.C. § 1983 asserting that the arrest violated the First
 8 Amendment and other rights under the United States and Nevada constitutions. (ECF No.
 9 29.) Santopietro seeks damages for what she contends was a wrongful arrest and
 10 imprisonment, the violation of her constitutional rights, and her attorneys' fees as provided for
 11 under 42 U.S.C. § 1983, 42 U.S.C. § 1985, and any other applicable law.

IDENTIFICATION OF PARTIES

13 Plaintiff – Michele Santopietro

14 Defendants -- Clayborn Howell, Christine Crawford, and Francisco Lopez-Rosende

CONTENTIONS OF PARTIES

Plaintiff's Contentions

17 Plaintiff brought eleven causes of action: (1) Violation of the First Amendment to the
 18 United States Constitution under 42 U.S.C. § 1983 (Free Speech); (2) Violation of the First
 19 Amendment to the United States Constitution under 42 U.S.C. § 1983 (Free Speech); Violation of
 20 Nevada Constitution, Article 1, Section 9 (Free Speech); (4) Violation of the Fourth Amendment
 21 to the United States Constitution (Unreasonable Search and Seizure); (5) Violation of Nevada
 22 Constitution, Article 1, Section 18 (Unreasonable Search and Seizure); (6) Violation of the
 23 Fourteenth Amendment to the United States Constitution under 42 U.S.C. § 1983 (Substantive
 24 Due Process); (7) Violation of Nevada Constitution, Article 1, Section 8 (Substantive Due
 25 Process); (8) Violation of the Fourteenth Amendment to the United States Constitution under 42
 26 U.S.C. § 1983 (Procedural Due Process); (9) Violation of Nevada Constitution, Article 1, Section
 27 8 (Procedural Due Process); (10) Violation of the Fourteenth Amendment to the United States
 28 Constitution under 42 U.S.C. § 1983; and (11) Violation of Nevada Constitution, Article 1,

1 Section 1 (Equal Protection). Plaintiff abandoned her Sixth, Eighth and Tenth Causes of Action.

2 Under 42 U.S.C. § 1983 (causes of action 1 and 2), a plaintiff must demonstrate that the
 3 defendant (1) acted under color of state law; and (2) deprived plaintiff of a constitutional right.
 4 *See Long v. Cnty. of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006). Police officers effecting
 5 an arrest as officers are “acting under the color of State law” for the purposes of Section 1983,
 6 even if the offending conduct was not authorized. *See Cohen v. Norris*, 300 F.2d 24, 30 (9th
 7 Cir. 1962). Thus, there is no dispute that the Officers here were acting under the color of state
 8 law.

9 The Ninth Circuit’s decision has significantly narrowed the issues for trial. The Ninth
 10 Circuit held that if Santopietro did not demand deletion of the photo, her “undisputed statements
 11 and actions do not even arguably evidence a business transaction.”

12 In other words, if the jury credits Santopietro’s version of events, she necessarily prevails on the
 13 merits. As the Ninth Circuit also held, even “[i]f Santopietro’s words or actions
 14 demonstrated that she was selling her performance, the sale would still likely warrant
 15 First Amendment protection.” But the “business” of selling protected expression can be “subject
 16 to reasonable time, place, or manner restrictions.” Determining whether Clark County Code §
 17 6.56.030 as applied to a quid-pro-quo exchange of a photograph is a reasonable “time, place,
 18 or manner” restriction “requires an inquiry into whether the
 19 restriction: (1) is justified without reference to the content of the regulated speech; (2) is narrowly
 20 tailored to serve a significant governmental interest; and (3) leaves open ample
 21 alternative channels for communication of the information.” If the jury determines
 22 that Santopietro sold her performance by demanding tips, the Court must determine
 23 whether the licensing ordinance as applied to sales by, rather than voluntary tips to, a street
 24 artist is a valid time, place, or manner restriction.

25 Finally, Santopietro contends that she suffered damages as a result of her arrest and
 26 detention.

27 **Defendant’s Contentions**

28 Defendants contend that the Plaintiff was properly arrested for violating Clark County
 Code 6.56.030, which generally requires that it is unlawful for a person to operate or conduct

1 business without first having procured a license for the business. “Probable cause to arrest exists
 2 when officers have knowledge or reasonably trustworthy information sufficient to lead a person of
 3 reasonable caution to believe that an offense has been or is being committed by the person being
 4 arrested.” *U.S. v. Lopez*, 482 F.3d 1067, 1072 (9th Cir. 2007) (citing *Beck v. Ohio*, 379 U.S. 89, 91
 5 (1964)). Further, the Ninth Circuit has held that probable cause also exists “when
 6 ‘under the totality of circumstances known to the arresting officers, a prudent person would have
 7 concluded that there was a fair probability that [the defendant] had committed a crime.’” *Id.*
 8 (quoting *U.S. v. Smith*, 790 F.2d 789, 792 (9th Cir. 1986)). Conclusive evidence of guilt is not
 9 required to establish probable cause, though “mere suspicion” is insufficient. *Id.* (citing *McKenzie*
 10 *v. Lamb*, 738 F.2d 1005, 1008 (9th Cir. 1984)). The Plaintiff bears the burden of establishing the
 11 absence of probable cause. *Beck v. City of Upland*, 527 F.3d 853, 864 (9th Cir. 2008).

12 Defendants maintain probable cause was established to arrest Plaintiff and Patrick.
 13 Defendants maintain Plaintiff demanded that the photograph that was taken with Howell by
 14 Crawford be deleted after Howell refused to tip the women. Plaintiff admitted she was aware it
 15 was illegal to demand a tip for a picture and also admitted that Howell had started to walking away
 16 from the women when the demands for the tip were made.

17 The Plaintiff was subject to the Code and, based upon the evidence presented, the officers
 18 had probable cause to arrest the Plaintiff and Patrick for violation of Clark County Code 6.56.030.
 19 The Defendants cannot be held liable for the arrest from a constitutional standpoint, as it has long
 20 been held that law enforcement officers can make an arrest for a misdemeanor crime. *See Carroll v.*
 21 *U.S.*, 267 U.S. 132, 156 (1925). “If an officer has probable cause to believe that an individual has
 22 committed even a very minor offence in his presence, he may, without violating the Fourth
 23 Amendment, arrest the offender.” *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001)
 24 (petitioner arrested for failure to wear seatbelt and failure to ensure child passengers’ seatbelts were
 25 fastened). Because probable cause existed to arrest the Plaintiff and Patrick, the Defendants had a
 26 legal right to conduct a search of the women after their arrest (seizure). *See U.S. v. Robinson*, 414
 27 U.S. 218, 224 (1973).

28

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1 The Defendants contend that they did not violate the Plaintiff's First Amendment rights as
2 alleged. A municipality may issue reasonable regulations governing the time, place or manner of
3 speech. *Berger v. City of Seattle*, 569 F.3d 1029, 1035-36 (9th Cir. 2001). To pass constitutional
4 muster, a time, place, or manner restriction must meet three criteria: (1) it must be content neutral;
5 (2) it must be "narrowly tailored to serve a significant governmental interest"; and (3) it must
6 "leave open ample alternative channels for communication of the information." *Id.* at 1036. In
7 order to establish a claim for a violation of a First Amendment right, a plaintiff must prove the
8 defendant "deterred or chilled" the plaintiff's speech and that "such deterrence was a substantial or
9 motivating factor in [the defendant's] conduct." *Menotti v. City of Seattle*, 409 F.3d 1113, 1155
10 (9th Cir. 2005). The Supreme Court holds that even protected activities like solicitation
11 "are subject to reasonable time, place, and manner restrictions." *Village of Schaumburg v. Citizens*
12 *for Better Environment*, 444 U.S. 620, 632 (1980). Defendants contend that the Code was content
13 neutral, served a significant governmental interest and was narrowly tailored to serve that
14 interest(s). Further, alternative channels of expressing First Amendment-protected speech were
15 available.

II.

STATEMENT OF JURISDICTION

Jurisdiction in this case is based on 28 U.S.C. §1331. Jurisdiction is not disputed.

III.

**THE FOLLOWING FACTS ARE ADMITTED BY
THE PARTIES AND REQUIRE NO PROOF**

1. In 2009, other street performers sued Metro, some of its senior personnel, and other parties, seeking to prevent arrests of street performers in violation of the First Amendment. The parties in that case entered into a Memorandum of Understanding (hereinafter called “the MOU”).

2. The MOU – to which Metro agreed as a signatory by the same counsel who defends the Officers in this case and represents Metro as a third party in this case – provides, in relevant part, that “the parties agree that”:

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- 1 1. The sidewalks and pedestrian bridges along Las Vegas Boulevard
 ("the Strip") constitute a traditional public forum for First Amendment
 purposes. *See Venetian Casino Resort, L.L.C. v. Local Joint Executive Bd. of Las Vegas*, 257 F.3d 937, 943 (9th Cir. 2001).
- 2 3. The Ninth Circuit Court of Appeals has determined that street performing is expressive speech or expressive conduct protected under the First Amendment. *See Berger v. City of Seattle et al.*, 569 F.3d 1029 (9th Cir. 2009).
- 3 4. Street performing, including the acceptance of unsolicited tips and the non-coercive solicitation of tips, is not a *per se* violation of any of the codes or statutes being challenged in this action.
- 4 6. The entirety of Chapter 6 of the Clark County Code, the business licensing codes, as written, is inapplicable to the act of street performing.

12 3. On May 28, 2011, the Officers were working as a three-person team patrolling the
 Strip together.

14 4. The Officers engaged a variety of street performers that day, generally asking to
 take a picture with the performers.
 16 5. All three Officers were in plain clothes.
 17 6. Santopietro and Patrick were both arrested and detained.
 18 7. Plaintiff's misdemeanor charge was dismissed by the court.

19 IV.

20 **THE FOLLOWING FACTS, ALTHOUGH NOT ADMITTED, WILL NOT** 21 **BE CONTESTED AT TRIAL BY EVIDENCE TO THE CONTRARY**

22 1. On May 27, 2011, Santopietro traveled to Las Vegas to meet her friend, Lea
 Patrick, so that the two could perform as characters on the Las Vegas Strip.

24 2. The two traveled together to Las Vegas three times before May 27, 2011, and they
 had engaged in street performances during those trips. During their street performances together,
 Michele and Lea performed in police officer costumes.

27 3. Michele and Lea's trip on the weekend of May 28, 2011 was the fourth time they
 acted as street performers together in Las Vegas, and, up until that trip, Santopietro had never

encountered any problems with law enforcement in Las Vegas or Los Angeles.

4. On May 28, 2011, Ms. Santopietro had been on the Strip as her sexy cop character with Ms. Patrick for about forty minutes before the Officers approached them.

5. After the exchange about the photo and lack of a tip, one of the Officers handcuffed Patrick and subsequently, one of the Officers handcuffed Santopietro.

V.

**THE FOLLOWING ARE THE ISSUES OF FACT
TO BE DETERMINED AT TRIAL**

1. Whether Santopietro (as opposed to Patrick) made the statement regarding the deletion of the photo, i.e., asking Crawford to delete the photograph if Howell did not like it, or demanding that she do so if the Officers refused to provide a tip.

2. If Santopietro did make the statement regarding the deletion of the photo, the factfinder must determine whether the nature of her statement and her actions demonstrated a quid-pro-quo offer for services.

3. The amount of damages, if any, resulting from the actions of the Officers.

VI.

**THE FOLLOWING ARE THE ISSUES
OF LAW TO BE DETERMINED AT TRIAL**

1. If the jury finds that Santopietro did not make any statement regarding the deletion of the photo, no further legal analysis is necessary.

2. If the jury finds that Santopietro made the statement regarding the deletion of the photo and determines that the nature of her statement and her actions demonstrated a quid-pro-quo offer for services the Court must determine whether the licensing requirement under Clark County Code § 6.56.030 is a valid time, place, or manner restriction as applied to the facts as determined.

VII.

(a) The following exhibits are stipulated into evidence in this case and may be so marked by the clerk:

1 **(b) As to the following additional exhibits, the party against whom the same will be**
 2 **offered objects to their admission on the grounds stated:**

3 **(1) Set forth the plaintiff's exhibits and objections to them.**

4	SAN000006	SAN000006	6/6/2011	Email from M. Santopietro to Detective Reinink of LVMPD clarifying statements made in regards to the complaint	
5	SAN000007	SAN000007	6/6/2011	Email from M. Santopietro to the Clark County District Attorney's Office re copy of Statement of Complaint	
6	SAN000008	SAN000008	6/6/2011	Email from T. Driver of the Clark County District Attorney's Office to M. Santopietro acknowledging receipt of statement of complaint	
7	SAN000009	SAN000011	6/7/2011	Email from T. Driver to M. Santopietro re complaints versus charges	
8	SAN000012	SAN000013	6/7/2011	Email from C. Reinink to M. Santopietro re department telephone numbers and filing a report for criminal charges	
9	SAN000014	SAN000015	6/8/2011	Email from M. Santopietro to C. Reinink re department telephone numbers and filing a report for criminal charges	
10	SAN000016	SAN000018	6/8/2011	Email from M. Santopietro to T. Driver re filing charges against	

1			police officers	
2			Email from M. Santopietro to C. Reinink re business license codes	
3	SAN000019	SAN000021	7/6/2011	
4	SAN000022	SAN000028		Summary of Incident by M. Santopietro Objection: Hearsay
5			Criminal Complaint filed with Justice Court, Las Vegas Township	
6	SAN000029	SAN000029	6/14/2011	
7	SAN000030	SAN000031	5/28/2011	Declaration of Arrest of M. Santopietro
8	SAN000032	SAN000033	5/28/2011	Declaration of Arrest of L. Patrick
9			Interim Stipulated Memorandum of Understanding filed in the Banasik v. Clark County, Nevada, et al. federal case	
10	SAN000034	SAN000039	2/4/2010	
11			First Amended Complaint filed in the Banasik v. Clark County, Nevada, et al. federal case	
12	SAN000040	SAN000074	7/21/2009	
13			Article from ReviewJournal.com entitled "Buskers Sue to Keep Space on Strip"	Objection: Hearsay; Relevance
14	SAN000075	SAN000078	7/10/2009	
15			Article from ReviewJournal.com entitled "Push to Clean Up Strip Ensnares Disabled Man"	Objection: Hearsay; Relevance
16	SAN000079	SAN000081	7/7/2012	
17	SAN000082	SAN000105		SEE PRIVILEGE LOG
18			Summary of Injuries prepared by Michele Santopietro	Objection: Impermissible Expert Evidence/Testimony; Hearsay
19	SAN000106	SAN000108		
20	SAN000109	SAN000112		Pictures of handcuff bruising after arrest Objection: Authentication
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1	SAN000113	SAN000117	Transportation Receipts from Michele Santopietro	
2	SAN000118	SAN000118	Colonoscopy Results showing presence of diverticulum	Objection: Authentication; Hearsay; Impermissible Expert Evidence/Testimony
3	SAN000119	SAN000119	IBS Symptoms	Objection; Authentication; Hearsay; Impermissible Expert Evidence/Testimony
4	SAN000120	SAN000120	Letter from D. Campbell, Lieutenant Commander Detectives, NYPD (ret.)	Objection: Hearsay; Authentication; Relevance
5	SAN000121	SAN000121	Letter from L. Patrick re Business card, email address and Facebook page	Objection: Hearsay; Authentication
6	SAN000122	SAN000122	Clark County Municipal Code 6.56.010 and 6.56.030	
7	SAN000123	SAN000128	LVMPD Defendants' Answer to Plaintiff's Amended Complaint in Banasik v. Clark County, Nevada, et al.	
8	SAN000129	SAN000148	Masto's (Attorney General) Answer to First Amended Complaint in Banasik v. Clark County, Nevada, et al.	
9	SAN000149	SAN000223	Email correspondence between Nick Crosby and LVMPD 30(b)(6) witnesses, sent from Jessica Austin to Andrew Jacobs on 10/15/2013	Objection: Hearsay; Relevance
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1	SAN000224	SAN000258	10/16/2013	Attachments to email correspondence between Nick Crosby and LVMPD 30(b)(6) witnesses, sent from Jessica Austin to Andrew Jacobs on 10/16/2013	Objection: Hearsay; Relevance
2	SAN000259	SAN000265	5/3/2013	Medical records from Media District Chiropractic	Objection: Hearsay; Authentication; Impermissible Expert Evidence/Testimony
3	SAN000266	SAN000295	5/21/2013	Medical records from West Gastroenterology Medical Group	Objection: Hearsay; Authentication; Impermissible Expert Evidence/Testimony
4				Answer to Plaintiff's Second Amended Complaint	
5	LVMPD 00001			Audio CD	
6	LVMPD 0002	LVMPD 0003		Officer's Report (Incident Recall)	
7	LVMPD 0004	LVMPD 0005		Officer's Report (Patrick)	
8	LVMPD 0006	LVMPD 0006		Property Report	
9	LVMPD 0007	LVMPD 0008		Arrest Report	
10	LVMPD 0009	LVMPD 0010		Arrest Report (Santopietro)	
11	LVMPD 0011			Detention Services Booking Voucher (Patrick)	
12	LVMPD 0012			Detention Services Booking Voucher (Santopietro)	
13	LVMPD 0013	LVMPD 0014		Declaration of Arrest (Patrick)	
14	LVMPD 0015	LVMPD 0016		Declaration of Arrest (Santopietro)	
15	LVMPD 0017	LVMPD 0018		Disposition Notices	
16	LVMPD 0019			Temporary Custody Record	
17	LVMPD 0020			Temporary Custody Record (Santopietro)	
18	LVMPD 0021			Photograph	
19	LVMPD 0022	LVMPD 0027		Interim Stipulated	

1			MOU	
2			LVMPD Citizen Review Board Screening Panel Findings	
3	LVMPD 0028			
4				
5			Howell's Response to Plaintiff's First RFP	
6			Howell's Response to Plaintiff's Second RFP	
7			Howell's Response to Plaintiff's First Interrogatories	
8			Howell's Response to Plaintiff's Second Interrogatories	
9			Howell's Response to Plaintiff's Third Interrogatories	
10			Howell's Response to Plaintiff's First Requests for Admission	
11			Howell's Response to Plaintiff's Second Requests for Admission	
12			Howell's Response to Plaintiff's Third Requests for Admission	
13			Crawford's Response to Plaintiff's First RFP	
14			Crawford's Response to Plaintiff's Second RFP	
15			Crawford's Response to Plaintiff's First Interrogatories	
16			Crawford's Response to Plaintiff's Second Interrogatories	
17			Crawford's Response to Plaintiff's Third Interrogatories	
18			Crawford's Response	
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1			to Plaintiff's First Requests for Admission	
2			Crawford's Response to Plaintiff's Second Requests for Admission	
3			Crawford's Response to Plaintiff's Second Requests for Admission	
4			Lopez-Rosende's Response to Plaintiff's First RFP	
5			Lopez-Rosende's Response to Plaintiff's Second RFP	
6			Lopez-Rosende's Plaintiff's First Interrogatories	
7			Lopez-Rosende's Response to Plaintiff's Second Interrogatories	
8			Lopez-Rosende's Response to Plaintiff's Third Interrogatories	
9			Lopez-Rosende's Response to Plaintiff's First Requests for Admission	
10			Lopez-Rosende's Response to Plaintiff's Second Requests for Admission	
11			Lopez-Rosende's Response to Plaintiff's Third Requests for Admission	
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27 Any exhibit listed by Defendants.

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(2) Set forth the defendant's exhibits and objections to them.¹

Bates	Bates	Description	Pls. Objection
LVMPD (Santopietro) 1	LVMPD (Santopietro) 1	Audio CD – Phone and Radio	Hearsay
LVMPD (Santopietro) 2	LVMPD (Santopietro) 3	Incident Recall, 9/24/12	
LVMPD (Santopietro) 4	LVMPD (Santopietro) 5	Officer's Report – Patrick	
LVMPD (Santopietro) 6	LVMPD (Santopietro) 6	Property Report	
LVMPD (Santopietro) 7	LVMPD (Santopietro) 8	Arrest Report (Patrick)	--
LVMPD (Santopietro) 9	LVMPD (Santopietro) 10	Arrest Report - Santopietro	--
LVMPD (Santopietro) 11	LVMPD (Santopietro) 11	DSD Booking Voucher (Patrick)	--
LVMPD (Santopietro) 12	LVMPD (Santopietro) 12	DSD Booking Voucher (Santopietro)	--
LVMPD (Santopietro) 13	LVMPD (Santopietro) 14	Dec. of Arrest (Patrick)	--
LVMPD (Santopietro) 15	LVMPD (Santopietro) 16	Dec. of Arrest (Santopietro)	--
LVMPD (Santopietro) 17	LVMPD (Santopietro) 18	Disposition Notices for SCOPE Data Entries	Relevance
LVMPD (Santopietro) 19	LVMPD (Santopietro) 19	Temporary Custody Record (Patrick)	
LVMPD (Santopietro) 20	LVMPD (Santopietro) 20	Temporary Custody Record (Santopietro)	
LVMPD (Santopietro) 21	LVMPD (Santopietro) 21	Photograph	
LVMPD (Santopietro) 22	LVMPD (Santopietro) 27	MOU, Docket No. 45, Case No. 2:09-cv-01242-LDG-GWF	
LVMPD (Santopietro) 28	LVMPD (Santopietro) 28	Citizens Review Board Screening Panel Findings	--
LVMPD (Santopietro) 29	LVMPD (Santopietro) 29	Memo from Citizens Review Board	
LVMPD (Santopietro) 30	LVMPD (Santopietro) 32	Letters from CRB to Howell, Crawford and Roberts	
LVMPD (Santopietro) 33	LVMPD (Santopietro) 33	Letter from CRB to Santopietro	
LVMPD (Santopietro) 34	LVMPD (Santopietro) 38	June 21, 2011 email to CRB	

¹ Plaintiff reserves all rights to assert all applicable objections to Defendants' exhibits, in addition to those asserted herein.

1	LVMPD (Santopietro) 39	LVMPD (Santopietro) 42	CRB Request	
2	LVMPD (Santopietro) 43	LVMPD (Santopietro) 43	June 16 Letter from Gillespie to Santopietro	Hearsay
3	LVMPD (Santopietro) 44	LVMPD (Santopietro) 49	Statement of Complaint	
4	LVMPD (Santopietro) 50	LVMPD (Santopietro) 53	June 1, 2011 Email from LVMPDforms@www.lvmpd. com	Hearsay
5	LVMPD (Santopietro) 54	LVMPD (Santopietro) 55	Incident Recall	
6	LVMPD (Santopietro) 56	LVMPD (Santopietro) 57	Arrest Report (Patrick)	Hearsay
7	LVMPD (Santopietro) 58	LVMPD (Santopietro) 58	DSD Booking Voucher (Patrick)	
8	LVMPD (Santopietro) 59	LVMPD (Santopietro) 59	Photograph with Charges Sheet	
9	LVMPD (Santopietro) 60	LVMPD (Santopietro) 61	Dec. of Arrest (Patrick)	
10	LVMPD (Santopietro) 62	LVMPD (Santopietro) 62	TCR (Patrick)	
11	LVMPD (Santopietro) 63	LVMPD (Santopietro) 63	Photograph	
12	LVMPD (Santopietro) 64	LVMPD (Santopietro) 65	DSD Voucher (Santopietro)	
13	LVMPD (Santopietro) 66	LVMPD (Santopietro) 67	Arrest Report (Santopietro)	
14	LVMPD (Santopietro) 68	LVMPD (Santopietro) 68	Photo with Charges Sheet	
15	LVMPD (Santopietro) 69	LVMPD (Santopietro) 70	Dec. of Arrest (Santopietro)	
16	LVMPD (Santopietro) 71	LVMPD (Santopietro) 71	TCR (Santopietro)	
17	LVMPD (Santopietro) 72	LVMPD (Santopietro) 72	DSD Booking Voucher	
18	LVMPD (Santopietro) 73	LVMPD (Santopietro) 73	Unit Log by Incident	
19	LVMPD (Santopietro) 75	LVMPD (Santopietro) 75	Municode 6.56.010 Definitions	
20	LVMPD (Santopietro) 76	LVMPD (Santopietro) 76	June 7, 2011 Email from Reinink to Santopietro	
21	LVMPD (Santopietro) 77	LVMPD (Santopietro) 77	TCR (Santopietro)	
22	LVMPD (Santopietro) 78	LVMPD (Santopietro) 78	DSD Booking Voucher	
23	LVMPD (Santopietro) 79	LVMPD (Santopietro) 80	CCDC Property Transaction Report	

1	LVMPD (Santopietro) 81	LVMPD (Santopietro) 81	OR Release Form	
2	LVMPD (Santopietro) 82	LVMPD (Santopietro) 82	Locator Identifier Card	
3	LVMPD (Santopietro) 83	LVMPD (Santopietro) 84	Screening Checklist	
4	LVMPD (Santopietro) 85	LVMPD (Santopietro) 85	Information Sheet	
5	LVMPD (Santopietro) 87	LVMPD (Santopietro) 87	Charge Information (Santopietro)	
6	LVMPD (Santopietro) 88	LVMPD (Santopietro) 98	NaphCare Documents	
7	LVMPD (Santopietro) 99	LVMPD (Santopietro) 99	LVMPD Institutional Trust Account	Hearsay; relevance
8	LVMPD (Santopietro) 100	LVMPD (Santopietro) 100	CCDC Release Statement	
9	LVMPD (Santopietro) 101	LVMPD (Santopietro) 101	Inmate Assessment	
10	LVMPD (Santopietro) 141	LVMPD (Santopietro) 149	CCAC Employee Roster	
11	LVMPD (Santopietro) 169	LVMPD (Santopietro) 171	October 2, 2012 Email Correspondence with CC Business License	Hearsay; relevance
12	LVMPD (Santopietro) 172	LVMPD (Santopietro) 173	November 19, 2012 email Correspondence with CC Ordinance Sheet	Hearsay; relevance
13	LVMPD (Santopietro) 174	LVMPD (Santopietro) 176	October 31, 2012 Email with CC Ordinance	Hearsay; relevance
14	LVMPD (Santopietro) 177	LVMPD (Santopietro) 182	October 23, 2012 Email Correspondence with Proposed Ordinance	Hearsay; relevance
15	LVMPD (Santopietro) 184	LVMPD (Santopietro) 187	August 14, 2012 Email Correspondence regarding Promoters with CC Business Licenses	Hearsay; relevance
16	LVMPD (Santopietro) 188	LVMPD (Santopietro) 188	CC Ordinances regarding Animals, Business Licenses and Dangerous Items	
17	LVMPD (Santopietro) 189	LVMPD (Santopietro) 197	Strip Corridor Pedestrian Conduct PowerPoint	

1	LVMPD (Santopietro) 208	LVMPD (Santopietro) 213	Safe Strip Briefing 2011 PowerPoint	
2	LVMPD (Santopietro) 324	LVMPD (Santopietro) 327	5/202.04 – Misdemeanor Citation and/or Arrest Policy	
3			Plaintiff's Responses to Howell's First Request for the Production of Documents	
4			Plaintiff's Responses to Howell's Second Request for the Production of Documents	
5			Plaintiff's Answers to Howell's First Set of Interrogatories	
6			Plaintiff's Answers to Howell's Second Set of Interrogatories	
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Snell & Wilmer

L.L.P.
LAW OFFICES
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LAS VEGAS, NEVADA 89169
(702)784-5200**(c) Electronic evidence:**

The parties do not intend to present electronic evidence for purposes of jury deliberations.

(d) Depositions:

(1) Plaintiff will offer the following depositions (except for impeachment purposes):

(a) Lea Patrick

If Ms. Patrick does not appear in person, Plaintiff intends to offer the following portions of her deposition transcript against all three Defendants: 6:15-7:12; 7:1-9; 9:4-17; 9:20-10:23; 11:4-10; 11: 21-22; 13:3-17:3; 17:5; 17:7-18:6; 18:17-20:16; 20:18-21:13; 22:4-26:7; 26:11-29:2; 29:10-21; 29:24-33:21; 33:23-34:20; 36:23-37:2; 37:4-5; 37:7-38:21; 42:2-7; 48:22-53:8; 53:17; 53:22-25; 57:14-58:16; 58:19-60:1; 60:7-19; 60:22; 60:24-65:24; 66:5-72:4; 72:8-74:18; 77:2-14.

(b) Clayborn Howell

Plaintiff understands that Defendant Howell will be present in person and only intends to use his

deposition as appropriate for impeachment purposes. Plaintiff will supplement if notified that Defendant Howell will not appear at trial.

(c) Kristine Crawford

Plaintiff understands that Defendant Crawford will be present in person and only intends to use her deposition as appropriate for impeachment purposes. Plaintiff will supplement if notified that Defendant Crawford will not appear at trial.

(d) Francisco Lopez-Resende

Plaintiff understands that Defendant Lopez-Resende will be present in person and only intends to use his deposition as appropriate for impeachment purposes. Plaintiff will supplement if notified that Defendant Lopez-Resende will not appear at trial.

(e) Todd Fasulo: 5:5-190:7 (exclusive of objections)

(f) Dennis Flynn: 4:10-33:2

(g) Michael Game 4:13-30:10

(h) Charles Hank: 4:16-116:7

(j) Chance McClish: 4:10-14:22

(1) Mark Reddon: 4:11-24:19

(m) Michael Yu: 4:10-36:21

(2) Defendant will offer the following depositions (except for impeachment)

purposes):

(a) Michael Game: pp. 12:4-25 – 25:1-4

(b) Michael Bland: pp. 8:24-25 27:1-19 34:23-25 38:1-15

(c) $\Sigma = \{0, 1\}$, $16, 28, 35, 39, 41, 43$

(e) Todd Fasulo: pp. 29:20-25 – 32:1-4; 52:19-25 – 60:1-11; 99:12-25 -- 107:1; 151:12-25 –

(e) Objections to depositions:

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(1) Defendant objects to plaintiff's depositions as follows:

Defendants object to the use of depositions for witnesses who testify during the trial, except for impeachment purposes.

(2) Plaintiff object to defendant's depositions as follows:

Plaintiff objects to the use of depositions for witnesses who testify during the trial, except for impeachment purposes.

VIII.

The following witnesses may be called by the parties at trial:

(a) Plaintiff's witnesses:

(a) Michele Santopietro
c/o Kelly Dove
Snell & Wilmer
3883 Howard Hughes Pkwy.
Ste. 1100
Las Vegas, NV 89169

(b) Officer Clayborn Howell
c/o Nick Crosby
Marquis Aurbach Coffing
10001 Park Ross Drive

(c) Officer Kristine Crawford²
c/o Nick Crosby
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

(d) Francisco Lopez-Resende
Retired.
c/o Nick Crosby
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

² Plaintiff anticipates that Defendants will be present in person and only intends to use the depositions as appropriate for impeachment purposes or due to unavailability.

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- 1 (e) Michael Bland
2 Retired.
3 Home Address confidential (NRS 289.025).
4 Last Known Phone: (702) 332-8557
5
6 (f) Donald Evans
7 Retired.
8 Home Address confidential (NRS 289.025).
9 Last Known Phone: (253) 358-3576
10
11 (g) Todd Fasulo
12 Retired.
13 Home Address confidential (NRS 289.025)
14 Last Known Phone: 702-770-7000
15 (h) Dennis Flynn
16 Retired.
17 Home Address confidential (NRS 289.025)
18 Last Known Phone: (702) 324-4423
19 (i) Michael Game
20 Retired.
21 Home Address confidential (NRS 289.025).
22 Last Known Phone: (702) 648-9809
23 (j) Charles Hank
24 Retired.
25 Home Address confidential (NRS 289.025)
26 Last Known Phone: 702-523-3228
27 (k) Chance McClish
28 Retired.
Home Address confidential (NRS 289.025)
Last Known Phone: (702) 493-7677
29 (l) Lea Patrick
30 c/o Kelly Dove
31 Snell & Wilmer
32 3883 Howard Hughes Pkwy.
33 Ste. 1100
34 Las Vegas, NV 89169
35 (m) Mark Reddon
36 Retired.
37 Home Address confidential (NRS 289.025).
38 Last Known Phone: (702)658-5114

1 Marquis Aurbach Coffing
2 10001 Park Run Drive
Las Vegas, NV 89145

3 (g) Officer Clayborn Howell

4 c/o Nick Crosby
5 Marquis Aurbach Coffing
10001 Park Run Drive
6 Las Vegas, NV 89145

7 (h) Chance McCloud

8 Retired.

9 Home Address confidential (NRS 289.025)
Last Known Phone: (702) 493-7677

10 (i) Michael Yu

11 Retired.

12 Home Address confidential (NRS 289.025)
Last Known Phone: (702) 321-3612

13 (j) Dennis Flynn

14 Retired.

15 Home Address confidential (NRS 289.025)
Last Known Phone: (702) 324-4423

16 (k) Steve Junge

17 [None provided]

18 (l) Charles Hank

19 Retired.

20 Home Address confidential (NRS 289.025)
Last Known Phone: 702-523-3228

21 (m) Todd Fasulo

22 Retired.

23 Home Address confidential (NRS 289.025)
Last Known Phone: 702-770-7000

24 (n) Lea Patrick

25 c/o Snell & Wilmer
3883 Howard Hughes Pkwy.
Ste. 1100
Las Vegas, NV 89169

26 (o) Officer Kristine Crawford

27 c/o Nick Crosby
Marquis Aurbach Coffing
10001 Park Run Drive

1 Las Vegas, NV 89145

2 (p) Any witness named by Plaintiff

4 **IX.**

5 The attorneys or parties have met and jointly offer these three trial dates:

6 Weeks of:

7 September 3

8 September 23

9 November 18³

10 December 9

11 It is expressly understood by the undersigned that the court will set the trial of this matter
12 on one of the agreed-upon dates if possible; if not, the trial will be set at the convenience of the
13 court's calendar.

14 **X.**

15 It is estimated that the trial will take a total of five days.

16 DATED: May 20, 2024.

17 APPROVED AS TO FORM AND CONTENT: APPROVED AS TO FORM AND CONTENT:

18 SNELL & WILMER L.L.P.

MARQUIS AURBACH

19 s/ Kelly H. Dove

20 Kelly H. Dove, Esq.
Nevada Bar No. 10569
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
Telephone (702) 784-5200
Facsimile (702) 784-5252

21 *Attorneys for Plaintiff*

s/

Nick D. Crosby, Esq.
Nevada Bar No. 8996
10001 Park Run Drive
Las Vegas, NV 89145
Telephone (702) 382-0711
Facsimile (702) 382-5816
Email: ncrosby@maclaw.com

22 *Attorney for Defendants*

23 **XI.**

24 **ACTION BY THE COURT**

25
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27
28 ³ Defendants' counsel is on a five-week stack for a potential trial in state court that could interfere
with this date.

1 This case is set for jury trial on the stacked calendar on **September 23,**
2 **2024, at 9:00 a.m.** Calendar call will be held on **September 18, 2024, at 1:30 p.m..**

3
4
5
6 DATED: May 28, 2024.

7 
8 UNITED STATES DISTRICT JUDGE

Snell & Wilmer

LLP.
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(702)784-5200

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on May 20, 2024, I electronically transmitted the foregoing **JOINT**
3 **PRETRIAL ORDER** to the Clerk's Office using the CM/ECF System for filing and
4 transmittal of a Notice of Electronic Filing to all counsel in this matter, all counsel being
5 registered to receive Electronic Filing.

6

7 */s/ Kelly H. Dove*

8 An employee of Snell & Wilmer L.L.P.

4893-2191-4299.1

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